

The opinion in support of the decision being entered today is *not* binding
precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT C. HARRIS

Appeal 2007-2041
Application 09/690,074
Technology Center 2800

Decided: September 21, 2007

Before JOSEPH F. RUGGIERO, ANITA PELLMAN GROSS,
and LANCE LEONARD BARRY, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Harris (Appellant) appeals under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 27 through 34, 38, and 40 through 46. Claims 44 through 46 have not been appealed. Therefore, only claims 27 through 34, 38, and 40 through 43 are before us. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant's invention relates generally to an electronic credit card. See generally Specification 1:5-8. Claim 27 is illustrative of the claimed invention, and it reads as follows:

27. An electronic credit card, comprising:

a credit card housing having a front surface showing a credit card number, and having electronic circuitry coupled to said housing, associated with a credit card account based on said credit card number;

a communication device, also coupled with said housing, and coupled with said electronic circuitry in said housing, communicating information to and from said electronic circuitry using a short range RF protocol;

wherein said electronic circuitry includes a memory storing an individual characteristic representative of an authorized user of the credit card;

further comprising a display which displays said individual characteristic, and wherein said individual characteristic is a user's picture, and said display displays said user's picture when a transaction is requested.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Nathans	US 4,972,476	Nov. 20, 1990
Pitroda	US 5,590,038	Dec. 31, 1996
Teicher	US 6,257,486 B1	Jul. 10, 2001 (filed Nov. 23, 1998)
Makipaa	US 6,394,341 B1	May 28, 2002 (filed Aug. 24, 1999)

Claims 27, 29 through 33, 38, 40, 42, and 43 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pitroda in view of Nathans.

Claims 28 and 41 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pitroda in view of Nathans and Makipaa.

Claims 34 stands rejected under 35 U.S.C. § 103 as being unpatentable over Pitroda in view of Nathans and Teicher.

We refer to the Examiner's Answer (mailed May 10, 2006) and to Appellant's Brief (filed February 17, 2006) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will sustain the obviousness rejections of claims 27 through 31, 38, and 40 through 42 but reverse the obviousness rejections of claims 32 through 34 and 43.

OPINION

Appellant separately argues the rejection of claim 27, claims 32, 33, and 43, claim 34, and claim 38. Since claims 28 through 31 have not been argued separately, they will be treated as standing or falling with claim 27, from which they depend. Similarly, since claims 40 through 42 have not been argued separately, they will be treated as standing or falling with claim 38, from which they depend.

Regarding claim 27, Appellant contends (Br. 3-4) that Pitroda discloses displaying a credit card number electronically rather than showing a credit card number on a front surface of a credit card housing, as recited in the first paragraph of the claim. Further, Appellant contends (Br. 4-6) that although Pitroda discloses that a CIU unit can display photographs, Pitroda does not disclose displaying a user's picture "when a transaction is requested," as recited in the last paragraph of the claim. Further, Appellant contends that Nathans' scrambled picture on an identification card is not

combinable with Pitroda and also fails to suggest displaying the user's picture "when a transaction is requested."

As to the display of the credit card number, Pitroda discloses (col. 3, ll. 34-36) that the universal electronic transaction (UET) card includes a housing which houses a display on a front surface thereof. Pitroda further discloses (col. 13, l. 59-col. 14, l. 1 and also col. 10, ll. 58-63) that a credit card account number can be displayed on the electronic display, as shown in Figure 14. Pitroda discloses a housing with a front surface on which a display shows a credit card number. Although the electronic display of the credit card number is for electronic applications, nothing in claim 27 restricts the display of the credit card number to non-electronic applications.

As to displaying a user's photograph when a transaction is requested, Pitroda discloses (col. 13, ll. 23-46) that a signature, photograph, fingerprint, or voiceprint can be used for identification purposes. Further, when a signature is used, a stored version of the user's signature is displayed to verify a signature *during a sales transaction*. The verification of the signature occurs because the user of the card requests a sales transaction. The skilled artisan would have understood from Pitroda that a photograph used for identification purposes would likewise be displayed when a user requests a sales transaction. Thus, Pitroda alone suggests displaying a user's photograph during a sales transaction, and Nathans is merely cumulative. Accordingly, we will sustain the obviousness rejection of claim 27 and claims 28¹ through 31 which have not been separately argued.

¹ We note that the Examiner used an additional reference to reject claim 28. However, since Appellant presented no arguments regarding the additional (Footnote continued on the next page)

Appellant (Br. 6 and 8) contends that Pitroda fails to disclose that the electronic circuitry begins operating upon detection of an external power source, as recited in claims 32, 33, and 43. The Examiner (Answer 7-8) directs our attention to column 4, lines 22-34 and 61+, and column 12, lines 48-56, as evidence that Pitroda discloses the limitation in question.

We have reviewed Pitroda with particular attention to portions cited by the Examiner, and we find no suggestion that the electronic circuitry begins operating upon detection of an external power source. Pitroda discloses in column 4 that the UET card may include power means and means for detecting inputting and processing activity and for turning off power to the display when no inputting or processing activity is detected. In other words, the power is turned on in response to processing activity, not vice versa. Further, the disclosure in column 12 merely teaches that the CIU unit reads information from the UET card when the card is inserted, but not that the circuitry on the card begins to operate upon detection of an external power source. Thus, we cannot sustain the obviousness rejection of claims 32, 33, and 43.

As to claim 34, Appellant contends (Br. 7) that Pitroda discloses displaying an electronic image of a credit card number, not raised lettering, as recited in the claim. Further, Appellant contends (Br. 7) that Teicher teaches embossing, not raised lettering, and that the skilled artisan would not have been motivated to combine analog lettering with the electronic image of Pitroda.

reference, the outcome for claim 28 rests upon the arguments presented for the primary combination.

We first note that embossed lettering is raised lettering. However, we agree with Appellant that the skilled artisan would not have been motivated to substitute Teicher's embossed lettering for Pitroda's electronic image. Pitroda discloses (col. 2, ll. 44-61 and col. 11, ll. 34-38) that the purpose of his UET card is to replace plastic cards by consolidating several cards into one. A display on the card displays the particular credit card being used for a given transaction. See col. 13, l. 59-col. 14, l. 1. Since Pitroda's UET card is supposed to represent several cards or accounts, it would not make sense to emboss a credit card number from one account on the card. Therefore, we cannot sustain the obviousness rejection of claim 34.

Regarding claim 38, Appellant contends (Br. 7-8) that Pitroda fails to disclose that the housing "displays said user's picture on an electronic display in response to a transaction." However, as indicated in our discussion of the rejection of claim 27, Pitroda suggests displaying a user's photograph on an electronic display during a transaction, which also satisfies "in response to a transaction." Accordingly, we will sustain the obviousness rejection of claim 38 and of claims 40, 41², and 42, which have not been separately argued.

² We note that the Examiner used an additional reference to reject claim 41. However, since Appellant presented no arguments regarding the additional reference, the outcome for claim 41 rests upon the arguments presented for the primary combination.

ORDER

The decision of the Examiner rejecting claims 27 through 34, 38, and 40 through 43 under 35 U.S.C. § 103 is affirmed as to claims 27 through 31, 38, and 40 through 42 and reversed as to claims 32 through 34 and 43. Accordingly, the Examiner's decision is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

tdl

SCOTT C. HARRIS
P. O. BOX 927649
SAN DIEGO, CA 92192